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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,483	10/16/2001	Dirk Boecker	10003016	6038

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EXAMINER

FOREMAN, JONATHAN M

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 01/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,483

Applicant(s)

BOECKER ET AL. *an*

Examiner

Jonathan ML Foreman

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 - 9 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 11 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 12, 13, 15 – 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Reber et al.

In reference to claim 10, Reber et al. discloses a method for portable medical analysis comprising: obtaining a body fluid; housing the body fluid within a cartridge comprising an assay sensor module; positioning the cartridge into an analytical detector module; obtaining information from the analytical detector module; displaying the information locally on a display within the communication module; and transferring the information to a remote location via a communication module (Col. 6, line 57 – Col. 7, line 10).

In reference to claim 12, Reber et al. discloses a portable medical analyzer comprising: a sampling module comprising a sample port (Col. 3, lines 33 – 35) for receiving at least one body fluid, the sampling module housed in a cartridge (16); an assay sensor module (16) housed in the cartridge, the assay sensor module comprising at least one assay sensor adapted to at least one assay for the body fluid (Col. 3, lines 5 – 17); an analytical detector module comprising at least one signal processor and circuitry for processing of signals from at least one detector corresponding to the assay sensor, the detector adapted to detect information from the assay (Col. 3, lines 37 – 56); and a communication module coupled to the signal processor, the communication module comprising a

Art Unit: 3736

transmitter and receiver in communication with an information management system (Col. 4, lines 31 – 41).

In reference to claim 13, Reber et al. the communication module being adapted to display information locally on the portable analyzer (Col. 3, lines 46 – 56).

In reference to claim 15, Reber et al. discloses the transmitter being adapted to at least one interface chosen from radio frequency, infrared and standard ports (Col. 4, line 56 – Col. 5, line16).

In reference to claim 16, Reber et al. discloses the transmitter being adapted to communicate with a remote database (Col. 4, line 56 – Col. 5, line16).

In reference to claim 17, Reber et al. discloses the communication module further comprising a storage unit for storing information locally on the medical analyzer (Col. 4, lines 7 – 18).

In reference to claim 19, Reber et al. discloses the information management system comprising a system for patient management .

In reference to claim 20, Reber et al. discloses the information management system comprising a system for administering the portable analyzer (Col. 7, lines 60 – 67).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al. in view of Causey, III et al.

Art Unit: 3736

In reference to claim 14, Reber et al. discloses a communication module but fails to teach the communication module being adapted to display historical data locally on the portable medical analyzer. Causey, III et al. discloses a portable medical analyzer wherein the communication module is adapted to display historical data locally. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the communication module as disclosed by Reber et al. to display historical data locally as taught by Causey, III et al. in order to view trending information [0083].

Allowable Subject Matter

5. Claims 1 – 9 are allowed. No prior art teaches or suggests a portable medical analyzer comprising: a sampling module comprising a lancet, a driving mechanism, and a sample port; an assay sensor module housed in a cartridge; an analytical detector module; and a communication module.

6. Claims 11 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Allen, III, Rohde, Lichter et al., Heinonen et al., Simons et al. and Burns et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703)-305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F Hindenburg can be reached on (703)308-3130. The fax phone numbers for the organization

Art Unit: 3736


where this application or proceeding is assigned are (703)-308-0758 for regular communications and (703)-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0858.



JMLF

January 27, 2003



MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700